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Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: MM Docket No. 99-325
Filing Online

Dear Ms. Dortch:

I am a public member of the Board of Directors of National Public Radio and I wish to add my voice to the debate on Digital Audio Broadcasting. I stand with my colleagues in Public Radio and echo their comments to the Commission, to wit:

Digital technology offers a wealth of benefits: improved sound quality, enhanced spectrum flexibility and efficiency, cost savings, and more. Combining all these benefits, however, only begins to describe the digital radio future, and the digital public radio future, in particular. We believe the importance of DAB is ultimately more about content than just audio quality, and we are excited by the opportunity to expand our program service offerings to the public.

It was on the basis of this belief in expanded audio program service that NPR, along with the Harris and Kenwood Corporations and several NPR Member stations, obtained experimental broadcast authorization to conduct field tests of the multicast capability of the iBiquity DAB technology ("Tomorrow Radiosm"). Those field tests established that iBiquity's technology permits broadcast stations to offer multiple digital audio program services and that the digital transmission was robust enough to serve most, if not all, of a station's primary

coverage area. In addition, independent audio quality testing found that the audio quality of the main audio channel compared favorably to the CD source material and the supplemental channel compared favorably to analog FM service.

Not only does the technology work, and work well, multicasting offers significant benefits to the public. During the past decade, public broadcasters, in particular, have been unable to construct new stations because of protracted delays in the licensing of stations, the prohibitive cost of purchasing stations, and the unavailability of frequency in more populous areas. Multicasting significantly addresses the pent-up demand for spectrum, and we expect this increased broadcasting capacity to trigger an explosion of new services. Utilizing the inherent flexibility of digital technology, we foresee new homeland security, assisted living, foreign language, and specialized news and information services. Already, there is a wealth of programming distributed via the Public Radio Satellite System that is unheard in many markets because stations currently lack the broadcast capacity to air it. In addition to preserving existing analog SCA-based radio reading services for the print impaired during the DAB transition, NPR is also committed to the expanded availability of radio reading services in the digital future, and we have expended and will expend considerable resources toward those ends.

In short, based on the Tomorrow Radiosm test results, including the lack of interference associated with subdividing the digital bitstream, and the public interest benefits inherent in multicasting, we urge the Commission to authorize digital audio multicasting without delay and without requiring special licensing. The broadcasting and consumer electronics industries are poised to implement the multicast capabilities of the iBiquity system as soon as the Commission acts.

With respect to service and other regulatory requirements, the Commission should require stations to provide a free over-the-air digital broadcast service in addition to the existing analog broadcast service but otherwise afford stations substantial flexibility to ascertain and serve the needs of their communities. Public radio stations, in particular, are inherently local institutions with a rich history of service to their communities through the broadcast of noncommercial news, information, and cultural programming. Public radio stations are also subject to important social forces, including community advisory boards, open public meetings, and public board members, which ensure their responsiveness to the public they are licensed to serve. Public radio stations also derive the largest share of their revenue from their communities in the form of voluntary membership pledges, further ensuring their responsiveness. Accordingly, while we believe it is appropriate to extend existing public interest obligations to the entirety of a station's free, over-the-air program services, there is little need to impose comprehensive new regulatory requirements on stations converting to DAB, particularly during what is likely to be an extended period of hybrid analog/digital operation.

Specifically, given continued improvements in digital technology, the Commission should not mandate a minimum amount of high definition audio or specify the amount of digital capacity that a station should allocate to particular audio or data services. The Commission should generally authorize stations to produce and distribute datacast services. We do not believe the Commission should impose program origination, format, or content requirements because such requirements inherently involve subjective judgments and invite arbitrary distinctions. In general, unless and until there is a compelling reason to change an existing rule, the Commission should refrain from doing so. It is also premature to even

consider service rules to govern all-digital operation, since it will likely be many years before digital radios effectively supplant analog radios as the predominant means of receiving over-the-air radio broadcast programming.

With respect to NCE radio stations specifically, the Commission should authorize such stations to offer ancillary and supplemental services for remuneration and without having to pay spectrum fees. The Commission enjoys ample authority to authorize subscription and other remunerative services, and sound public policy compels such an authorization. Just as NCE radio stations were authorized to use their analog SCAs for remunerative purposes, the digital capacity will allow stations to further diversify their revenue sources. At least during the period of hybrid operation, NCE radio stations should be required to offer free over-the-air analog and digital NCE services, but they should be free, as a Commission matter, to utilize their remaining capacity for other purposes. As either government or non-profit entities, NCE radio stations are subject to significant restrictions on their commercial activities, and we expect stations to pursue ancillary services, such as a "pledge-free" subscription service for station members, that are consistent with their noncommercial mission. While the offering of these services could, in some instances, exceed the definition of a noncommercial educational broadcast service, the entirety of the station's programming offerings and its essential character as an NCE radio entity would not be compromised.

We believe the Commission lacks authority to impose spectrum fees on ancillary uses of digital spectrum but, in any event, the Commission should exempt NCE radio stations from any spectrum fee the Commission may seek to impose. NCE radio stations are statutorily exempt from the existing application and regulatory fees, and the public policy

considerations that justify those exemptions extend naturally to any spectrum fee associated with a digital radio service. As Congress and the Commission have repeatedly found, the imposition of user fees on public radio stations only undermines the financial support that Congress and the states provide.

With respect to the existing technical rules, the Commission should consider only limited changes. The Commission should not simply extend the existing television Channel 6 rules, which are based on 20 year-old analog television receiver design. Rather, the Commission should examine the continuing need, if any, for the television Channel 6 rules, based on the current state of television receiver technology, the conversion to digital television ("DTV"), and the public's limited reliance on over-the-air broadcast television reception. Given the reduced signal strength associated with in-band, on-channel ("IBOC") digital transmissions, moreover, we do not expect digital radio stations in television Channel 6 markets to cause new or increased interference.

The Commission should also facilitate the use of digital translator and booster stations. Public radio translator and booster stations serve substantial audiences in hundreds of communities across the United States. To avoid frustrating the digital transition of full power stations, however, the Commission should not mandate the conversion of all related analog translator stations as a condition to converting a primary station. We would also support the use of alternative delivery means to "feed" non-reserved FM translators that extend a station's signal beyond its primary coverage area, but only if the Commission adopts distance or other limitations to preserve the local nature of translator service and broadcast service generally. Before authorizing the use of alternative delivery means, moreover, the Commission should seek public comment on the specific distance or other

limitation(s) that it is contemplating adopting so that potentially affected parties can identify problematic aspects of the proposed approach(es).

Finally, we believe it is premature for the Commission to consider specific receiver-based mechanisms to prevent the copying and distribution of copyrighted works. It is incumbent on the Recording Industry Association of America ("RIAA") to demonstrate a concrete harm associated with DAB, and, given the nascent state of the technology, we do not believe such a showing can be made at this time. There is an existing statutory mechanism to compensate copyright owners for the use of digital recording devices, moreover, and, at present, there is no reason to believe that this mechanism will be inadequate or that copyright infringement will threaten the demise of free over-the-air broadcasting and trigger the Commission's statutory authority over the matter. Therefore

The Commission Should Consider Limited Changes to Its Technical Rules. . .

- A. The Commission Should Re-examine the Continuing Need for the Existing Channel 6 Rules . . .
- B. The Commission Should Facilitate the Use of Digital Translator and Booster Stations, But Not Mandate The Conversion of Existing Analog Translators or Boosters . . .
- C. If the Commission Authorizes Stations to Use Alternative Delivery Means to Feed Non-Reserved FM Translators That Extend the Station's Signal Beyond Its Primary Coverage Area, The Commission Should Adopt Measures to Protect Broadcast Localism. . .

Unless and Until There Is An Imminent Problem Warranting Receiver-Based Digital Audio Content Controls, It is Premature for the Commission to Pursue Possible Remedial Measures.

Respectfully,

Paul Delaney